IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10480 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KEDAR MADHU BAHERA

Versus

STATE OF GUJARAT

Appearance:

MR SS LEUVA for Petitioner

MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 27/03/2000

ORAL JUDGEMENT

#. The petitioner came to be detained by virtue of an order passed by the Commissioner of Police, Surat City, Surat, on September 23, 1999, in exercise of powers under section 3 (1) of the Gujarat Prevention Anti-Social Activities Act, 1985 ("PASA Act" for short), detaining

the detenue under the provisions of the PASA Act. The petitioner sent an application through jail authority for examining his case of detention. As the petitioner was not represented by an advocate, by virtue of an order passed earlier by this Court, Mr.S.S.Leuva, learned advocate represents the case of the petitioner by way of legal aid.

#. Mr. Leuva has drawn attention of this Court to certain documents supplied to the detenue with the grounds of detention which are illegible and in respect of which affidavit supporting the petitioner's case is filed by one Pradip Madhu Bahera, brother of the petitioner - detenue. The documents supplied by the detenue are placed on the record. Upon perusal by learned AGP Mr. K.T. Dave as well as this Court, it is found that there is substance in the contentions raised and advanced by Mr. Leuva that documents are not legible. This is so particularly in respect of pages 81 and 82 placed on the record of this Court. This can certainly be said to have affected the right of the detenue of making an effective representation. This would vitiate the detention. The petition therefore, deserves to be allowed on this ground alone.

#. In view of the aforesaid discussion, the petition is allowed. The impugned order of detention dated September 23, 1999 is hereby quashed and set aside. The detenue Kedar Madhu Bahera is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

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